

CHICKASAW OIL & GAS, INC.

IBLA 84-91

Decided March 29, 1984

Appeal from a decision of the Oregon State Office, Bureau of Land Management, rejecting simultaneously filed oil and gas lease applications OR-36271 and OR-36277.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases:
Applications: Drawings

The regulatory requirement that a simultaneously filed oil and gas lease application be rendered in a manner that reveals the name of the applicant, the name of the signatory, and their relationship is not satisfied where no indication of the signatory's authority appears on the application and there is no reference to a statement of qualifications on file with BLM in which the relationship between the signatory and the applicant is disclosed.

2. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases:
Applications: Drawings

BLM is not required under 43 CFR 3102.5 to gather substantive information required on but missing from a simultaneously filed oil and gas lease application.

APPEARANCES: Antone L. Peterson III, Esq., Houston, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Chickasaw Oil & Gas, Inc. (Chickasaw), has timely appealed from a decision of the Oregon State Office, Bureau of Land Management (BLM), dated September 27, 1983, rejecting Chickasaw's oil and gas lease application drawn with first priority for parcels OR-120 and OR-126 in a May 1983 drawing. BLM rejected the application because it did not reveal the relationship between the applicant and the signatory, as required by 43 CFR 3112.2-1(b), and contained no reference to a previously filed qualifications statement.

The record contains the lease application filed on behalf of Chickasaw. In the blank labeled "Signature in Ink" on the application form appears the legibly handwritten signature of W. R. Howard. There is no notation on the

form to indicate the relationship between the signatory and the applicant. The space titled "Qualifications Serial Number (if applicable)" is blank.

A regulation in effect at the time that the application was filed provided:

(b) The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamped signatures shall not be used. [Emphasis added.]

43 CFR 3112.2-1(b). 1/

Appellant contends that the supplementary information provided in the publication of this regulation, at 47 FR 8544 (Feb. 26, 1982), gave appellant "reason to believe that the government's goal was to discontinue emphasis on verifying qualifications of each applicant and focusing on qualifications of selected applicants by virtue of audit procedures, whereby qualifications of applicants would be questioned and any such applicant would be allowed to substantiate its qualifications." Appellant suggests that such later substantiation is the reason for the provision in 43 CFR 3102.5 that "anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein, may be required to submit additional information to show compliance with the regulations of this group and the act." 2/

Appellant also challenges BLM's decision on the grounds that the lease application form provided by BLM calls for only a "signature in ink" and not a "signature and title in ink." In this regard appellant further notes that an example of an acceptable filing published in the Federal Register notice (i.e., "ABC Corporation, agent for Mary Jones by John Smith") does not show the signatory's relationship with his corporate employer. For reasons set forth below, we reject appellant's arguments and affirm BLM's decision.

1/ Subsequent to the date that the application was filed, the Department amended its regulations for simultaneous oil and gas lease applications. It is noteworthy that the new regulations contain a requirement similar to that in 43 CFR 3112.2-1(b): "The application shall be signed and dated at the time of signing. If signed by anyone other than the applicant, the application shall show the relationship of the signatory to the applicant. The date shall reflect that the application was signed within the filing period." 48 FR 33678 (July 22, 1983) (to be codified at 43 CFR 3112.2-1(c)). (Emphasis added.)

2/ With its statement of reasons appellant provided an "Incumbency Certificate" showing that the signatory on the rejected application, W. R. Howard, has been the president of Chickasaw Oil & Gas, Inc., since June 6, 1983. We comment further on this information infra.

[1] The language of 43 CFR 3112.2-1(b) is unambiguous. The requirement it expresses is intended to provide BLM with sufficient information to aid the agency's selective audits to verify compliance with other regulatory provisions concerning, inter alia, acreage limitations, foreign investment restrictions, and multiple filing restrictions. See 47 FR 8544 (Feb. 26, 1982). Thus, while appellant is correct in its assertion that BLM meant by its February 1982 rulemaking "to discontinue emphasis on verifying qualifications of each applicant and [to focus] on qualifications of selected applicants [through] audit procedures," appellant has ignored the fact that under this regulatory approach BLM still plainly requires that a description of the relationship between the applicant and signatory be provided on the lease application, and has merely eliminated the requirement that a separate qualification statement be provided with or referenced on the application form. Compare 43 CFR Subpart 3102 (1982) with 43 CFR Subpart 3102 (1981). 3/

[2] Under 43 CFR 3102.5 BLM may require information, e.g., a qualifications statement, in addition to that required to be provided on the lease application; however, BLM's authority under this regulatory provision is not intended to be used by the agency to gather substantive information required on but missing from a lease application. See Charles Fox and George H. Keith, Partnership, 77 IBLA 199 (1983), and cases cited therein. Furthermore, were we to adopt the broader reading of 43 CFR 3102.5 urged by appellant, it would not serve appellant's interests under the facts revealed in the record of this case. This is because appellant's "Incumbency Certificate," submitted with its statement of reasons pursuant to 43 CFR 3102.5, shows that W. R. Howard became president of the appellant company on June 6, 1983, but reveals nothing about W. R. Howard's relationship with appellant on the earlier date of May 17, 1983, when he signed the subject application. See n. 2, supra.

As for appellant's purported detrimental reliance on a filing example provided by BLM in the Federal Register (i.e., "ABC Corporation, agent for Mary Jones by John Smith"), we observe that the agency relationship between the applicant (Mary Jones) and the signatory (the ABC Corporation by John Smith) is stated in this example. 4/ This fact also negates appellant's related claim that it was misled by the application form because the form provides space for a "signature in ink" without a specification that the "signature" be accompanied by an indication of the relationship between the signatory and the applicant.

3/ In any event, given the plainly stated requirement in 43 CFR 3112.2-1(b), it is improper for appellant to resort to the supplementary information published with the regulation to create ambiguity in the meaning of the regulatory language. See, e.g., FTC v. Manager, Retail Credit Co., 515 F.2d 988, 995 (D.C. Cir. 1975).

4/ Moreover, the Board has indicated in prior decisions that, where an application is filed by a corporate agent, the relationship between the person signing for a corporate agent and the corporate agent should also be revealed on the application. Charles R. Tickel, 73 IBLA 360, 90 I.D. 258 (1983); Vincent M. D'Amico, 55 IBLA 116 (1981), appeal dismissed, D'Amico v. Watt, Civ. No. 81-2050 (D.D.C. filed Aug. 31, 1981).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Oregon State Office rejecting oil and gas lease applications OR-36271 and OR-36277 is affirmed.

R. W. Mullen
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Bruce R. Harris
Administrative Judge

